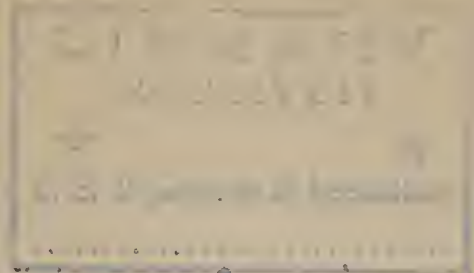


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# UNITED STATES DEPARTMENT OF AGRICULTURE

## FOREST SERVICE

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### STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

#### INDIANA

(Serial 1—Though Reg. Sess., 1915)

Compiled in the Office of State Cooperation by Jeannie S. Peyton

#### PURPOSE OF COMPILATION.

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

#### PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

SEC. 7450, BURNS' ANNO. IND. STAT., 1914.

**State Board of Forestry: Created—Personnel—Secretary, ex-officio State Forester and Superintendent of State Forest Reserves, qualifications of—Terms of office—Salary and expenses—Quorum—President.**—That a board is hereby created and established which shall be known under the name of the state board of forestry. It shall consist of five members, who shall be appointed by the governor, as follows: One from the membership of the hardwood lumber dealers' association of Indiana, one from the membership of the retail

lumber dealers' association of Indiana, one from the faculty of Purdue University, one who is actively engaged in farming and one who shall have special knowledge of the theory and art of forest preservation and timber culture and technical knowledge of the topography of the state, and the last described member, shall, upon his appointment and qualification become and be the secretary of said board, ex-officio state forester and superintendent of state forest reserves. All of said members shall hold their offices for a term of four years, and each of said members, except the secretary, who is hereinafter provided for, shall receive a salary of one hundred dollars per annum and mileage not to exceed three cents a mile for necessary miles traveled in attending necessary meetings of said board. Said salary and mileage shall be paid out of the treasury of the state upon warrants of the auditor of state, and the members shall certify the amounts due them, separately, upon vouchers duly attested before some officer authorized to administer oaths. A majority of said board shall constitute a quorum, and said board shall annually elect from



its number a president: *Provided*, That members of the board heretofore appointed shall serve during the term for which they were appointed. [L. 1901, ch. 49, sec. 1; amended by L. 1903, ch. 44, sec. 1.]

SEC. 7451.

**State Board of Forestry: Oath of office.**—Before entering upon the discharge of their duties, the members of said board shall each take and subscribe an oath of office before the clerk of the supreme court that they will faithfully and honestly discharge the duties of said offices, which oath of office shall be filed in the office of the secretary of state. [L. 1901, ch. 49, sec. 2.]

SEC. 7452.

**State Board of Forestry: Meetings.**—The board shall meet at least once each quarter in the city of Indianapolis and as often as they may deem necessary upon five days' notice signed by the president and secretary, and in the absence of the president, a chairman shall be chosen to preside. The minutes of all meetings shall be recorded by the secretary in a book to be kept for that purpose. [L. 1901, ch. 49, sec. 3.]

SEC. 7453.

**State Board of Forestry, duties of: Collection and classification of forest data—Recommendations re forest preservation and timber culture, and establishment of State forest reserves—Annual Reports.**—It shall be the duty of said board to collect, digest and classify information respecting forests, timber lands, forest preservation and timber culture, and to recommend plans and methods for forest preservation and timber culture and for the establishment of state forest reserves. The board shall, annually, on or before the first day of December, file with the governor a report. [L. 1901, ch. 49, sec. 4.]

SEC. 7454.

**Secretary of Board: Office, and duties.**—The secretary of the board shall keep his office at Indianapolis, in a room to be furnished said board by the custodian of the state house, and shall perform such duties as are prescribed by this act or may be required by the board; and he shall, as far as practicable, submit to the associations and meetings of timber dealers, wood-workers, farmers and engineers of maintenance of way of railroads, information and facts as to forests and timber. [L. 1901, ch. 49, sec. 5.]

SEC. 7455.

**Secretary of Board: Salary and expenses of, and salary of clerk—Time devoted exclusively to work of office—Payments due to, how made—Expenses of publication.**—The secretary shall receive an annual salary of eighteen hundred dollars. For expenses of office and traveling, an amount not exceeding \$1,000; clerk six hundred dollars (\$600). Said secretary shall give his exclusive time and attention to said office and shall not hold any other office, appointment or position other than herein

provided for. The president of the board shall quarterly certify the amount due the secretary upon vouchers duly attested by the secretary before some officer authorized to administer oaths, and the amount so certified shall be paid to the secretary out of the treasury of the state upon warrant of the auditor of state. That expenses of publication shall be paid from expense fund of the state printing board. [L. 1901, ch. 49, sec. 6; amended by L. 1903, ch. 44, sec. 2.]

**PART II.—FIRES.**

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

**(1) PROTECTIVE SYSTEM.**

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

SEC. 2263.

**Township Road Supervisors: Employing help to extinguish fires—Payments—Rates.**—It shall be the duty of the township road supervisor when any woods, as in section 1,<sup>1</sup> shall become on fire in his road district to employ such help as he may need to extinguish such fire, and himself and such help as he employs shall be paid by the township trustee from the general expense funds of the township at the rate of \$1.50 per day for the time actually occupied in extinguishing such fire. [L. 1905, ch. 49, sec. 2.]

**(2) RAILROAD FIRES.**

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 5525a.

**Railroads: Responsible in damage for injuries caused by fire from locomotives—Insurable interest—Burden of proof as to contributory negligence—Fire clauses in contracts re private side-tracks.**—That each railroad corporation owning or operating a railroad in this state shall be responsible in damage to every person or corporation[s] whose property may be injured or destroyed by fire communicated directly or indirectly by locomotive engines in use upon the railroad owned or operated by such railroad corporations, and each such railroad corporation shall have an insurable interest in the property upon the route of the railroad owned or operated by it, and may procure insurance thereon in its own be-

<sup>1</sup> See Code sec. 2262, on p. 3.



half for its protection against such damages: *Provided*, In all actions instituted under this act the burden of proving the defense of contributory negligence shall be upon the defendant. Such defense may be proved without special plea: *Provided*, That this act shall not be construed to prevent or affect in any wise fire clauses which may be inserted in contracts between railroad companies and other parties, relative to the construction of and operation over private sidetracks. [L. 1911, ch. 107, sec. 1.]

SEC. 5525b.

**Railroad corporations defined.**—The term "railroad corporations" contained in this act shall be deemed and taken to mean all corporations, companies and individuals now owning or operating, or which may hereafter own or operate, any railroad within this state. [L. 1911, ch. 107, sec. 2.]

### (3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

### (4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 2261.

**Woods, prairie, marsh, etc., maliciously burning: Penalty.**—Whoever maliciously or wantonly sets fire to any woods, or to anything growing or being upon any marsh, prairie or grounds, not his own property, or maliciously or wantonly permits any fire to pass from his own marsh, prairie or grounds, to the injury or destruction of the property of any other person, shall, on conviction be fined not less than five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not exceeding thirty days. [L. 1905, ch. 169, sec. 372.]

SEC. 2262.

**Woods, setting on fire: Fine—Liability for damages—Prosecution—Action against prosecuting attorney for non-feasance—Bondsmen liable for damages sustained.**—That any person who shall set fire to any woods belonging to another or shall place a fire on his property and permit it to spread to the woods of another shall be liable to a fine of not less than \$5 or more than \$50, and furthermore, shall be liable to the owner or owners for the full damages sustained by reason thereof, and it shall be the duty of the prosecuting attorney of the county to faithfully investigate and prosecute each and every case, and any failure to do so by him shall be sufficient evidence for his removal from office, and his bondsmen shall become liable for the full damage hereof sustained. [L. 1905, ch. 49, sec. 1.]

## PART III.—PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

### (1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

SEC. 7456.

**State forest reservation, laboratory and State nurseries: Appropriation for purchase of land—Amount annually allowed for management.**—That there be and is hereby set aside a sum of money out of any money not otherwise appropriated sufficient to purchase two thousand acres of land by the state board of forestry for the purposes of a state forest reservation, laboratory of forestry demonstration and state nurseries, and that the sum of one dollar and fifty cents per acre annually thereafter be allowed to defray the expenses of management and labor of the same. [L. 1903, ch. 60, sec. 1.]

SEC. 7457.

**State forest reservation, etc.: Location of land, and price.**—The board of forestry shall purchase said land in any county or counties of the state, which, in its judgment, affords the best opportunities for the purposes prescribed: *Provided*, That the land so purchased shall not exceed a cost of eight dollars per acre, and the land so purchased shall be taken in title in the name of the state of Indiana. [L. 1903, ch. 60, sec. 2.]

SEC. 7458.

**State forest reservation, etc.: Management—Expenses, payment of.**—The board of forestry shall manage and shall establish such rules and regulations governing the management and work as are necessary to execute the plans it may project, and the expense of the same shall be paid quarterly from the fund designated for that purpose out of the state treasury, upon warrant by the auditor of state when vouchers are presented to said auditor duly certified to by the president and secretary of the board before some officer authorized to administer oaths. [L. 1903, ch. 60, sec. 3.]

SEC. 7459.

**State forest reservation, etc.: Receipts from, disposal of, by Secretary of Board—Bond of Secretary.**—The secretary of the board shall receive all money to which the state may be entitled by reason of the sale of any timber, leases, contracts for the mining and removal of minerals or from any source whatever from such land, and he shall immediately pay the same over to the state treasurer as a part of the revenues of the state, and the secretary shall give his bond, to the governor of the state, in the sum of five thousand dollars for the faithful discharge of his duty. [L. 1903, ch. 60, sec. 4.]



## SEC. 7460.

**State forest reservation, etc.: Rights of way across, granting.**—That the state board of forestry shall have the right to grant and convey by deed rights of way to electric and steam railroads and to telegraph and telephone companies to construct and operate their lines across the lands of the Indiana state forest reservation, laboratory of forestry demonstration and state nurseries. [L. 1907, ch. 57, sec. 1.]

## SEC. 7461.

**State forest reservation, etc.: Rights of way across, approval of.**—The terms and conditions upon which such rights of way are granted and conveyed by deed shall be submitted to and approved by the governor, the attorney-general and the auditor of state, before the same shall become operative or possession taken thereunder. [L. 1907, ch. 57, sec. 2.]

## (2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

## (3) MUNICIPAL FORESTS.

## SEC. 4276a.

**Local Forestry Associations: Formation—Powers to establish and maintain Forests—Affiliation with Indiana forestry association.**—That any number of persons not less than five may voluntarily associate themselves by written articles of association, in duplicate, signed and acknowledged by each person who may be a member at the time of the organization, specifying the name of such association as the forestry association of the county, city, town or township, as the case may be, where it is contemplated to establish and maintain a public forest; one copy to be filed with the recorder of the county, which shall be recorded in the proper book in such office; the other to be filed with the secretary of the Indiana forestry association. And thereupon such association shall become a corporation perpetually with powers to establish and maintain forests for the uses and purposes herein provided. Any person may become a member of the association by consent of the forestry board named in this act. Such association may establish annual and life membership fees. Every such association shall become affiliated with the Indiana forestry association without charge under such rules and regulations as that association may from time to time provide. [L. 1913, ch. 13, sec. 1.]

## SEC. 4276b.

**Forestry Boards of associations: Officers—Duties—Bonds—Vacancies, how filled—No compensation—Term of service.**—Every association shall name in its articles five (5) persons of the county interested in the subject of forestry as the forestry board of such association. The board shall choose from their number a presi-

dent, secretary and treasurer and forester, and fix their duties and require bonds for the performance of such duties. Upon the death, resignation or removal of any member of such board the members of that association shall select some fit person to fill such vacancy; and all vacancies shall be filled by the remaining members of such association. The members of the board shall serve without compensation and hold during good behavior. [L. 1913, ch. 13, sec. 2.]

## SEC. 4276c.

**Gifts to associations: Title to vest in forestry board—Property non-taxable—Title to lands of lapsed associations to vest in the State of Indiana.**—Every such association may accept gifts of money, lands, and property for its use in acquiring and maintaining forests. And for that purpose it may acquire title to lands by gift, devise or purchase. The title to all property howsoever given or acquired shall vest in such forestry board and the same shall not be sold or incumbered, but shall be held in perpetuity for forestry purposes for the benefit of the public. The property of such association shall not be taxable for state, county, township, town, or any other purposes. In case any local association shall lapse or cease to maintain its organization, the title to the lands held by it shall vest in the State of Indiana. [L. 1913, ch. 13, sec. 3.]

## SEC. 4276d.

**Contributions by county commissioners, common councils, and others, towards acquiring and maintaining Forests: How made, and used—Copy of order to be filed with Indiana forestry association.**—It shall be lawful for the boards of commissioners of the several counties of this state and the common councils and boards of trustees of the cities and towns in any county and the trustees of any township where any forest is established to assist in acquiring and maintaining the same by contributions to such associations which may be sums in gross or annual payments from year to year as may be determined at the time of the making or adoption of the order of [or] ordinance therefor. All such funds shall be used only by the forestry board of the association for the purchase, improvement and development of the forests to which the same may be dedicated and shall continue irrevocable for the time or period specified in such order or ordinance. A copy of every such order or ordinance shall be filed in the office of the recorder of the county and a duplicate thereof with the secretary of the Indiana forestry association. [L. 1913, ch. 13, sec. 4.]

## SEC. 4276e.

**Lands acquired by associations: Reports thereon to be filed with the Indiana forestry association.**—Every association acquiring land by gift, devise, purchase, or otherwise, shall report in writing to the secretary of the Indiana forestry association a description of such land and how and from whom acquired and the cost thereof, if any. [L. 1913, ch. 13, sec. 5.]

## SEC. 4276f.

**Forestry Boards of associations, duties of: Cultivation and protection of Forests—Disposition of proceeds therefrom.**—It shall be the duty of the forestry board of every forestry association to plant, protect and cultivate the forestry lands authorized to be acquired by this act in such way as to produce trees of the kinds well suited for lumber and other purposes; and the product of the forest when sold by such forestry board and any other moneys arising on account of such lands shall be used for acquiring other lands for and reforesting and maintaining the forest so that the same may be a means of affording the enlargement, continuance and maintenance of the forest in perpetuity; any surplus not so required to go to the school fund for [of] this state. [L. 1913, ch. 13, sec. 6.]

## SEC. 4276g.

**Forests: Use of, as play-grounds, pleasure resorts, etc.**—The forestry board shall have power to permit the forest to be used as playgrounds, for picnics, and other meetings for the pleasure, health and enjoyment of the people, when the same can be had without injury to the forest, and free of charge, under such rules and regulations as the forestry board may from time to time adopt and provide. [L. 1913, ch. 13, sec. 7.]

## SEC. 4276h.

**Injury of trees in Forests: Penalty—Fines to go toward maintenance of Forest.**—After the establishment of any such forest it shall be a misdemeanor for any person to injure, deface, harm or destroy any tree in such forest without the consent of the forestry board. Any offender upon complaint of any member of the forestry board shall be arrested and fined by any justice of the peace in any sum not less than five times the value of the tree destroyed or the injury done, which sum when recovered shall be paid to the forestry board and become

a part of the fund for the maintenance of the forest. [L. 1913, ch. 13, sec. 8.]

## SEC. 4276i.

**Employment of foresters.**—When necessary the forestry board shall have power to employ foresters and others to plant, protect, cultivate and maintain the forest. [L. 1913, ch. 13, sec. 9.]

## SEC. 4276j.

**President of each Board, a member of the State association.**—The president of every forestry board shall ex officio be a member of the Indiana forestry association. [L. 1913, ch. 13, sec. 10.]

## SEC. 4276k.

**Use of Forests by teachers.**—Any teacher in any of the public schools or universities of this state giving instruction on the subject of forestry shall have the right without charge to take the pupils and students of such schools to any public forest as a means of giving instruction on the subject of forestry. [L. 1913, ch. 13, sec. 11.]

## SEC. 4276l.

**Construction of act.**—This act shall be liberally construed and so as to encourage and promote forestry throughout the state. And for such purpose the legislature reserves the right to amend this act from time to time when it shall be necessary to further the purposes of this act. [L. 1913, ch. 13, sec. 12.]

## PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

